

## THE LEGISLATURE.

Short Sessions Held, but Important Business Transacted by the Uneasy Members.

## A NEW GAMBLING BILL.

The Council Measure Has the Restrictions in the Hunt Bill, and Adds Sections Necessary to Make a Binding Law.

The legislators attended strictly to business during the forenoon session, but were rather abstracted in the afternoon, some of them fearful, perhaps, lest they should miss the trains which would convey them to their families. An early adjournment, however, righted matters, and the city will be practically deserted until Monday. The council committee to which was referred Hunt's gambling bill reported it back with numerous amendments and it was thought better to report it as a new bill, which was done, and it was referred to the printing committee. Bickford's bill, which makes some radical changes in the present attachment law, was recommended for passage. The bill authorizing justices of the peace to act as police magistrates in the absence of the latter was recommended for passage, as was the bill providing for a territorial board for the inspection of boilers and examination of engineers. The judiciary committee of the house was so ungracious as to report the bill allowing women to practice law in Montana courts without recommendation.

## THE COUNCIL.

All the members of the council were present except Mr. Collins, who had been excused, but some of the gentlemen were little late in getting around, the numerous pleasures of the evening before having apparently had a bad effect. After prayer by the chaplain and the reading of the minutes, Thompson, of Silver Bow, from the special committee, reported council bill No. 1, providing for a board to inspect boilers and examine and license engineers. The committee reported numerous amendments, and the bill and amendments were referred to general orders.

Thompson, of Silver Bow, from the special committee on Hunt's gambling bill, reported a substitute which was read first and second times.

Thompson, of Deer Lodge, said he feared the original bill would be killed by the adoption of the substitute, and the substitute might not be adopted by the house. He did not want to place everything in this line of legislation on the casting of a die, and would like to see the substitute introduced as a council bill.

Middleton supported the views of Thompson, and on motion the bill was again referred to the special committee with instructions to bring in an independent bill.

Brown gave notice of his intention to introduce a bill to amend sections 1687 to 1694 of the general laws, concerning the rights of parties occupying the public domain.

Council went into committee of the whole, Hatch in the chair.

Council bill No. 16, prescribing what shall be grounds for the issuance of a writ of attachment, introduced by Middleton, was considered. That gentleman said the present law permitted the closing up of a business establishment by a writ of attachment although there might be ample property to secure the debt and though there was no intention to defraud. His bill was to prevent such deleterious enforcement of the law. The grounds upon which attachment may issue under his bill are as follows: When the defendant, or one of several defendants, is a foreign corporation; or, has absconded with the intent to defraud his creditors; or, has left the country or his residence to avoid the service of a summons; or, so conceals himself that a summons cannot be served upon him; or, is about to remove his property, or a part thereof, out of the jurisdiction of the court, with the intent to defraud his creditors; or, is about to convert his property or a part thereof into money for the purpose of placing it beyond the reach of his creditors; or, has property or rights in action which he conceals; or, has assigned, removed, or disposed of, or is about to dispose of his property, with intent to defraud his creditors; or, fraudulently contracted the debt or incurred the obligation for which suit is about to be or has been brought.

Bickford suggested the amendment of the second ground by including those about to abscond. The amendment was adopted. Bickford moved an amendment making the failure to pay a promissory note when it became due a sufficient cause for a writ of attachment. After some discussion the amendment was voted down.

Bickford then moved that the failure to pay an employee his wages on demand and when the service for which he was employed was completed, but this was also voted down by a vote of six to five, those voting for the amendment being Bickford, Conrad, Kennedy, Olds and Mr. President.

Some verbal amendments were adopted and the bill was recommended for passage. Council bill No. 15, authorizing justices of the peace to act as police magistrates under certain circumstances, was considered and favorably recommended.

The committee then rose, the chairman reported, the amendments were adopted by the council and the bills referred to the committee on engrossment, and the council took a recess until 2 p. m.

In the afternoon Thompson, of Silver Bow, from the special committee, reported a bill which is the substitute offered at the morning session for the Hunt gambling bill. The rules were suspended and the bill read the first and second times by title. The question of the bill being printed coming up, Thompson, of Deer Lodge, urged that it be not printed on account of the delay which would be necessary. He thought there was an immediate necessity for the law.

Middleton, Brown, and Kennedy opposed hurried action and thought the territory would not be totally lost if the action on the bill were postponed a few days.

On motion the bill was ordered printed. Council went into committee of the whole, Thompson, of Deer Lodge, in the chair.

The bill providing for a territorial board to inspect boilers and examine and license engineers was discussed and numerous amendments adopted but no radical changes were made in the printed bill. A couple of hours were spent in the consideration of the measure and it was finally recommended for passage.

The committee then rose and council resumed. The chairman reported, the amendments were adopted, the bill referred to the engrossing committee, and the council adjourned until 2 p. m. Monday.

## HOUSE.

The house convened at 11 a. m., and after roll call, and prayer by Chaplain Webb, house bill No. 12, a bill which entitles towns and cities to incur indebtedness, was reported correctly printed and referred to the committee on towns and counties.

Garrett, from the committee on towns and counties, reported council bill No. 7,

which authorizes counties to build free bridges, with recommendation that the bill pass. The bill authorizes county commissioners, in addition to taxes already levied, to levy a special tax, not to exceed one mill on the dollar, for the purpose of constructing free bridges. The money received shall be kept as a special bridge fund. The construction of said bridges shall be under the supervision of the board of county commissioners, and in case the work thereon shall exceed in cost the sum of \$50 it shall be contracted for at the lowest possible price.

Hunt from the judiciary committee reported house bill No. 10, an act for the compensation of justices of the peace, with amendment and recommended as amended the bill pass; also council bill No. 4, which permits women to practice law in Montana, without recommendation.

Swiggett reported the action of the committee of the whole, which was considered.

House bill No. 4, relative to the transfer of certain moneys from road and poor to the general fund, was ordered engrossed.

House bill No. 9, the game and fish bill, was referred to the committee on territorial affairs.

Council bill No. 3, relative to attachments in justices courts, which was reported with the recommendation that its consideration be indefinitely postponed, causing a ripple on the placid surface of legislative enactment. Moore moved that the vote by which the recommendation was made be reconsidered.

Blakeley seconded, and stated that he thought the house might have been a little summary in the disposition of the bill which had been carefully considered and passed by the council. He believed it would be well to send the bill back to the committee of the whole for further consideration. The motion was lost by a twelve to nine vote.

Council joint memorial No. 7 relative to selling mines to aliens, was referred to a special committee for abbreviation, consisting of Saxton and Murray.

Council joint memorial No. 8, relative to the admission of Montana as a state, was referred to the committee on territorial affairs.

The house took a recess until 2 p. m., and upon resuming resolved itself into committee of the whole, Saxton in the chair.

The committee considered council bill No. 7, which permits counties to build free bridges. After brief discussion a motion prevailed to re-refer the bill to the committee on towns and counties for further consideration.

House bill No. 10, an act to provide for the compensation of justices of the peace, was reported slightly amended, with the recommendation that when the committee arrive it recommend that the bill pass.

The house resumed and the speaker announced that it was about to sign council bill No. 6 defining the boundary lines of certain west side counties.

House bill No. 4, relating to the transfer of certain county funds, was reported correctly engrossed.

House bill No. 5, which was granted leave of absence until Monday at 2 o'clock p. m. Joslyn, Pickman and Murray followed suit. As train time was rapidly approaching the absence of members became momentarily more noticeable and there was a development into a genuine panic. The catastrophe, however, was averted by Davis, who said they all wanted leave of absence until Monday at 2 p. m., and made a motion to that effect. The motion was adopted and the house adjourned.

BILLS, MEMORIALS AND RESOLUTIONS.

The following bills, memorials and resolutions have been introduced in the legislature up to date, and have been disposed of as appears:

COUNCIL BILLS.

Council bill No. 1, to establish a territorial board of inspection for boilers and engines, introduced by Middleton, was considered. That gentleman said the present law permitted the closing up of a business establishment by a writ of attachment although there might be ample property to secure the debt and though there was no intention to defraud. His bill was to prevent such deleterious enforcement of the law. The grounds upon which attachment may issue under his bill are as follows: When the defendant, or one of several defendants, is a foreign corporation; or, has absconded with the intent to defraud his creditors; or, has left the country or his residence to avoid the service of a summons; or, so conceals himself that a summons cannot be served upon him; or, is about to remove his property, or a part thereof, out of the jurisdiction of the court, with the intent to defraud his creditors; or, is about to convert his property or a part thereof into money for the purpose of placing it beyond the reach of his creditors; or, has property or rights in action which he conceals; or, has assigned, removed, or disposed of, or is about to dispose of his property, with intent to defraud his creditors; or, fraudulently contracted the debt or incurred the obligation for which suit is about to be or has been brought.

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transfer of certain moneys to the general funds of counties. The passage of the bill was recommended by committee of the whole and referred to the engrossment committee.

House bill No. 5, relating to the territorial law library. Committee of the whole recommended that its further consideration be indefinitely postponed.

House bill No. 6, an act to regulate the practice of medicine and surgery in the territory. Referred to a select committee with instructions to confer with a like committee from the council.

House bill No. 7, an act to repeal subdivision five of an act concerning licenses. Referred to committee on ways and means.

House bill No. 8, an act to provide for the payment of bounties for the killing of certain stock destroying animals. Passed the house; referred to committee on grazing and stock growing in the council.

House bill No. 9, to amend section 1143 and strike out a portion of 1152 of chapter 67 compiled statutes. Bill prohibits the killing of buffalo, bison and beaver for ten years, etc., and prescribes legal fishing tackle. Substitute for bill adopted, and referred to committee on elections and territorial affairs.

House bill No. 10, an act to provide for the compensation of justices of the peace. Amended by judiciary committee, considered by the committee of the whole which recommended its passage. Ordered engrossed.

House bill No. 11, an act to establish the western boundary line of Fergus county. Referred to a special committee consisting of members of Fergus and Meagher counties.

House bill No. 12, a bill for an act to amend an act to enable certain cities and towns to incur indebtedness. Referred to committee on towns and counties.

House bill No. 13, an act for the protection of fish in the streams of Montana. Referred to printing committee.

House bill No. 14, an act providing for the conveyance of the dower right of insane married women. Referred to printing committee.

House bill No. 15, an act for the regulation, organization and discipline of the National Guard of Montana. Referred to printing committee.

House bill No. 16, an act to establish the office of inspector of mines. Ordered printed.

House bill No. 17, an act creating a territorial board of equalization, prescribing its duties and certain county officers. Ordered printed.

MEMORIALS AND RESOLUTIONS.

House joint resolution No. 1, providing for extra clerks in house and council, signed by the governor Jan. 18.

House joint resolution No. 2, providing for the printing and distributing of 500 copies of the governor's message. Passed and approved Jan. 25.

House joint resolution No. 3, providing for assistant watchman and janitor for house and council. Approved Jan. 23.

House joint resolution No. 4, for the appointment of a joint committee to examine into the affairs of the penitentiary and insane asylum. Resolution passed both houses and committee appointed.

Council joint resolution No. 1, providing for extra printing, paper, postage stamps, etc. Signed by the governor Jan. 23.

Council joint resolution No. 2, thanking Hon. J. K. Toole for his efforts in behalf of the admission of Montana as a state. Laid on the table by the house.

Council joint memorial No. 3, asking congress to donate the Ft. Ellis military reservation to the territory of Montana. House substitute passes both houses.

Council joint memorial No. 4, protesting against the admission of Utah as a state laid on the table by the house.

Council committee resolution No. 6, for appointment of a joint committee to examine the books and accounts of the territorial and treasurer, passed both houses and committee appointed.

Council joint memorial No. 7, relating to the sale of mining lands to aliens, referred to special committee of the house for purpose of adoption.

Council joint memorial No. 8, relating to the admission of Montana as a state, referred in the house to the committee on territorial affairs.

Dr. G. A. Rawson

Makes a specialty of chronic diseases. Offices 105, 107, Grand street, 104, 106 Breckinridge street. Office hours 10 to 12 m., 2 to 4 and 7 to 8 p. m., Helena, Mont.

## HONORING THE DEAD.

Tribute to the Memory of the Late Thomas F. Napton by Members of the Bar.

## A MAN WHOM ALL LOVED

The Resolutions of the Bar Association Spread Upon the Records—Addresses by Col. Sanders and Others.

In the supreme court of Montana, yesterday, Chief Justice McConnell presiding, the afternoon session was occupied with addresses in memory of the late Thomas L. Napton. Col. W. F. Sanders spoke as follows:

May it please your honors: I desire to arrest for a moment the proceedings of the court, and as one of a committee of the Bar Association of this territory, to present to your honors the action of that body respecting the death of one of its members. At a meeting of the Montana Bar Association, held at Helena, Jan. 10th, 1889, the following memorial and resolutions touching the death of Thomas L. Napton, Esq., were unanimously adopted, and a committee consisting of W. F. Sanders, Hon. Robert L. Smith and Hon. Hiram Knowles was appointed, with instructions to present the same to the supreme court when it should convene.

RESOLUTIONS.

"It is the duty of the members of the bar to hold in affectionate memory their brethren who, having performed their duties with fidelity, have passed beyond this visible diurnal sphere. Thomas L. Napton, Esq., for more than a score of years, has been identified with us in the administration of justice in Montana, on the 24th of November, 1888, departed this life, has left with us a heritage which is precious, and which we treasure as among our dearest memories. He was a lawyer of profound learning, a friend whose loyalty knew no diminution, a gentleman whose courtesy attracted all persons, a citizen of high integrity and noble character, permitted no circumstance or event to separate his affection from his brethren of the bar. Of a character which was the admiration of his fellow citizens, of an amiability which attached his acquaintances to him as a friend, of a research which was a high example to lawyers and scholars, of a modesty which permitted no conceit, and of many noble traits of personal character, he was respected by the courts, dear to his colleagues, admired by all who knew him; and we proudly testify to his lofty purpose in every ambition and event of his life. So long as gratitude for professional fidelity shall endure, so long as we shall appreciate the stability and solidity of human character, so long as men shall strive to improve the administration of public justice, the memory of our brother will endure. His whole life has been devoted to the study of the law, and his ready mind, penetrating through all material question saw and seized the very point of the contention.

"To his family his memory is precious: to his friends his excellent qualities of heart and head will long remain in their memory and incite their admiration; while to his brethren of the bar he has left an aluring example, which will be treasured in tradition and among our archives so long as justice is administered in Montana.

"In consideration of the excellencies of his character and the affection we bear to his memory, we will spread this memorial upon the records of this association, appoint a committee to present it to the supreme court of Montana, furnish a copy to the children of our deceased brother, and the association in respect to his memory will now adjourn."

For nearly a quarter of a century that has elapsed since judicial tribunals were organized in this territory this is the second or third time that the members of the bar have sought in this tribunal to present their estimates of their brethren, and asked that they be entered upon your hon-

ors' records. I confess, for one, with profound regret that we have permitted so many of these brethren of ours who have ministered in this tribunal to pass away, without leaving some enduring monument of the services that they performed and the character which they here built up; and I trust that hereafter the precedent here and now set, of recording in some feeble way, as best we can, the characteristics of the lawyers of Montana, as one after another they shall be gathered to the sheets of death, will be followed. We had in times past a lawyer who came here of mature years, and who spent fifteen or twenty years actively engaged in the practice of the profession, a man of the highest character, and a lawyer whose example was one that we might well imitate, when he died, so far as I know anything of it, never in any tribunal had his name mentioned. I refer to Judge Spratt. I might refer to others who have more recently passed away, who seem to have been by us, so far as our records are concerned, forgotten. So much as a reason why I ask your honors to suspend your somewhat busy labors for a few moments while Mr. Napton's brethren shall say a few words, which I know they feel should be said concerning his services and memory.

To have been a lawyer in this tribunal for nearly a quarter of a century, and to have come into this territory while it was in a nascent state, and to have exercised over its formative period an influence such as a true lawyer must always exercise, is a high privilege, and devolves corresponding duties. Mr. Napton came here a young man, and I take the opportunity to say that although we mention that place to which he first went with a spirit of laughter, and where his earlier professional services in Montana were more particularly confined, heartown, that his experience there fitted him for the subsequent career which he ran in the territory, and enabled him fully to discharge the duties which thereafter devolved upon him. Of all the mining camps of Montana humanity in the raw never existed more supremely than it did in heartown, and seems to have been a Mecca toward which a large number of our early ambitious lawyers journeyed. I think when the camp itself was first discovered no officer authorized by law to administer the judicial tribunals was there. I think the miners themselves elected their first justices of the peace without any authority of law, and proceeded by a common consent and a public sentiment that would accept no denial, to enforce their doctrine and the rights of men. It is a tradition of our early history that a citizen of Alder Gulch applying to his countryman and friend, Acting Governor Meagher, was given a roving commission as a justice of the peace and started out from the capital of the territory to ascertain a fruitful field for his judicial labors. He settled in heartown; and it was there that Judge Knowles and Mr. Napton and Mr. Robinson, and Mr. Stevens and a large number of the members of the bar, many of whom still remain with us, first practiced law in Montana.

Mr. Napton was born a lawyer. His father was a lawyer before him. All that surrounded him from infancy pertained to the law. Its technical rules and the ethics upon which it was based were the familiar conversation to which he listened in his childhood, and he was so attached to it that no temptation of public honors, no promise of greater wealth, could have lured him from its practice and pursuit. He was a young man when the civil convulsions were disturbing the country, and taking his convictions from those things that were near to him, which necessarily gave color to them, he joined the armies of the rebellion. I have often thought as he told me of his long journey to find the command with which he desired to identify himself, that the picture itself was worthy of an artist. In all his subsequent life I never knew a person who differed with him as to what was his duty at that time that felt like reproaching him, and I mention the fact simply to call forth a trial of his character that I think was worthy of all praise. Most of us when we become identified with any particular mission which we subsequently conclude to be wrong become actuated by pride to pursue one of two courses—we either seek to pervert morals to justify that which we know to be wrong, or we seek to abolish the discriminations between right and wrong. There was nothing of this kind about Mr. Napton. He came out of that rebellion, and looking it all over, as he had an opportunity to in calmer times, and upon a wider view, and in the light of future experience, he did not

lose at all his sympathy with the right, and he was as ready as any lawyer I know of, and any citizen of Montana that I know of, on all occasions, to assist in forwarding all those enterprises that took hold of the citizens of the territory and its institutions, and promoted the moral good of its people. Of course it is idle to undertake to reverse the order of nature or the system of morals that is given us to obey. Mr. Napton in this court and in the subordinate courts throughout the territory of Montana, where he had a large practice, comprehended and obeyed the dictates of such professional integrity. He was a student, and when he came to the conclusion that his case was one which upon authority, and upon the principle which those authorities sought to show forth, could not be maintained, he would not undertake to maintain it; and he had a standing I am certain before the judicial tribunals, whose ministers were acquainted with him, that gave to him that large influence in the conduct of the affairs of his clients to which he was justly entitled. But to those of us associated with him at times, and against him at times, who knew him, it was that rare amiability of temper, that kindness of heart, that moderation of feeling and expression, and that kindly deference to the opinions and feelings of those that surround him, that made him dear unto us; it was these that gave him a grasp upon our affections in the sisterhood of states, and found that in the sisterhood of Montana, second, I undertake to say, that no member of the bar has practiced law here. And therefore it is that the Bar Association assembling last month and looking around for the familiar face that from its inception had been there to encourage and strengthen, and to guide and control and to enable it to perform its mission, and make it a potent force and factor in the administration of public justice, and fit this great commonwealth for her place in the sisterhood of states, and found that that seat was vacant, they desired then and there to testify their admiration for his character, their affection for him, and ask your honors to place these resolutions upon the records of this court, where his children and his children's children, and the succeeding generations of men who may come may know what manner of man it was that aided in this great conquest of Montana from barbarous life to the civilization that we now enjoy. I therefore ask your honors that an order be made that these resolutions of our association be placed upon your records; and I shall request your honors to listen to what some of the brethren of the bar may desire to say to you here and now with reference to Mr. Napton.

Robert B. Smith, United States district attorney, followed in a few feeling words in honor of a man who, he said, had been to him as an elder brother, "chivalrous and generous in all his impulses, and a lawyer of high ability as tested by the records of this country and this court."

E. W. Toole spoke lastly, heartily endorsing what had been said, and Judge W. E. Cullen added an eloquent tribute to the worth of Mr. Napton, whom he had known for many years. Mr. Haldorn, of Butte, also made a few remarks.

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